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Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JEANNE E. CALDWELL,

Plaintiff,

v.

ROY L. CALDWELL, PH.D., in his  
official capacity as Director of the  
University Of California Museum Of  
Paleontology; DAVID LINDBERG, in  
his official capacity as Chair of the  
Integrative Biology Department of the  
University of California-Berkeley; and  
MICHAEL D. PIBURN, in his official  
capacity as Program Director for the  
National Science Foundation,

Defendants.

CASE NO. C05-04166 PJH

STIPULATION AND ~~PROPOSED~~ ORDER  
RE: CONTINUANCE OF HEARING ON  
DEFENDANTS ROY L. CALDWELL,  
PH.D., AND DAVID LINDBERG'S  
MOTION TO DISMISS COMPLAINT  
PURSUANT TO F.R.C.P. 12(b)(6)

STIP AND PROPOSED ORDER RE: MOTION TO DISMISS

**STIPULATION**

Defendants, Roy L. Caldwell, Ph.D., and David Lindberg have filed a Motion to Dismiss plaintiff Jeanne E. Caldwell's Complaint in this action pursuant to Federal Rules of Civil Procedure 12(b)(6), which is noticed for hearing on January 25, 2006. Under the Local Rules, Plaintiff's Opposition to the Motion to Dismiss would be due on or before January 4, 2006, and Defendants' Reply would be due on or before January 11, 2006.

Based upon the holiday season and pre-existing commitments in other lawsuits, plaintiffs' counsel have requested a two-week continuance of the hearing on the Motion to Dismiss, which will also result in a two-week continuance of the respective deadlines for plaintiff's Opposition and defendants' Reply.

Subject to approval of the accompanying Order by the court, the parties hereby stipulate, through their respective counsel of record, to a two-week continuance of the hearing date on defendants' Motion to Dismiss and the respective deadlines for plaintiff's Opposition and defendants' Reply in relation to the Motion to Dismiss, so that the following dates will apply:

|   |                   |
|---|-------------------|
| New hearing date for                                  |                   |
| Defendants Caldwell and Lindberg's Motion to Dismiss: | February 8, 2006. |

|  |                   |
|--|-------------------|
| New deadline for filing and service of |                   |
| Plaintiff's Opposition:                | January 18, 2006. |

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|--|-------------------|
| New deadline for filing and service of |                   |
| Defendants' Reply:                     | January 25, 2006. |

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STIP AND PROPOSED ORDER RE: MOTION TO DISMISS

1 It is so stipulated.

2 Morgenstein & Jubelirer LLP

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4 Dated: *December 28, 2005* By: 

Adrienne S. Leight, Esq.,  
Attorneys for defendants  
Roy L. Caldwell, Ph.D., and  
David Lindberg

8 Pacific Justice Institute

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10 Dated: *Dec. 28 '05* By: 

Kevin T. Snider, Esq.,  
Attorneys for plaintiff Jeanne E. Caldwell

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STIP AND PROPOSED ORDER RE: MOTION TO DISMISS

**ORDER**

Good causing appearing, and based upon the stipulation of the parties, the requested continuance of the hearing date and respective dates for filing and service of plaintiff's Opposition and defendants' Reply for defendants Roy L. Caldwell, Ph.D., and David Lindberg's Motion to Dismiss, pursuant to F.R.C.P. 12(b)(6) is granted, so that the following dates will apply:

New hearing date for  
Defendants Caldwell and Lindberg's Motion to Dismiss: February 8, 2006.

New deadline for filing and service of  
Plaintiff's Opposition: January 18, 2006

New deadline for filing and service of  
Defendants' Reply: January 25, 2006.

It is so ordered.

Dated: 1/5/06



Honorable Phyllis J. Hamilton,  
United States District Judge

STIP AND PROPOSED ORDER RE: MOTION TO DISMISS